

AMENDED IN SENATE JUNE 24, 2003
AMENDED IN ASSEMBLY APRIL 23, 2003
AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 652

Introduced by Assembly Member Leno

February 19, 2003

~~An act to amend Section 4980.44 of the Business and Professions Code, relating to healing arts. An act to amend Section 4040 of, and to repeal Sections 4041 and 4043 of, the Insurance Code, relating to mutual insurers, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 652, as amended, Leno. ~~Marriage and family therapist interns~~
Mutual insurers: loans.

Existing law allows a mutual insurer to borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that the money is required to be repaid only out of the insurer's surplus in excess of that stipulated in the agreement. Existing law allows this type of agreement to provide for interest not exceeding a certain amount, and provides that no commission or promotion expense shall be paid in connection with any of these loans. Existing law provides that money so borrowed, and interest thereon, shall not form part of the insurer's legal liabilities, except as specified, and requires that any loan of this type made to a

mutual insurer be repaid when and to the extent it is no longer reasonably necessary, except as specified.

This bill would allow the type of agreement described above to provide for fixed or variable interest not exceeding an amount allowed by the Insurance Commissioner. The bill would require that any agreement provide that all payments require prior approval by the commissioner. It would permit the commissioner to allow a commission or promotion expense to be paid in connection with this type of loan, and would require conformity to specified accounting practices in the insurer's financial statements. The bill would eliminate the provisions of law relating to excluding these loans from the insurer's legal liabilities and repaying them when made to a mutual insurer.

The bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law describes the qualifications for employment as an unlicensed marriage and family therapist intern, requires an intern to be registered with the Board of Behavioral Sciences and limits the number of times any intern may renew his or her registration. Existing law authorizes an applicant who is no longer able to renew his or her registration, to apply for and obtain new intern registration status if he or she meets certain educational requirements. Existing law requires an applicant who obtains this new intern status to fulfill all required hours of experience for licensure within that intern registration period, and provides, that hours of experience fulfilled under a prior intern registration cannot be used to satisfy licensure requirements.~~

~~This bill would delete the requirement that the applicant fulfill the hours of work experience within the new registration period, and the provision that the hours of experience fulfilled under a prior intern registration cannot be used to satisfy licensure requirements.~~

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 4980.44 of the Business and Professions~~
- 2 *SECTION 1. Section 4040 of the Insurance Code is amended*
- 3 *to read:*
- 4 4040. A mutual insurer may borrow money to defray the
- 5 expenses of its organization, provide it with surplus funds, or for
- 6 any purpose of its business, upon a written agreement that ~~such the~~

money is required to be repaid only out of the insurer's surplus in excess of that stipulated in ~~such~~ the agreement. The agreement may provide for *fixed or variable* interest not exceeding ~~either 6 percent per annum, or the maximum interest rate permitted by the Federal Reserve Bank, whichever is the higher rate, on single maturity time deposits in the amount of one hundred thousand dollars (\$100,000) and over, running one year or more~~ an amount allowed by the commissioner, which interest shall or shall not constitute a liability of the insurer as to its funds other than ~~as such~~ the excess ~~as~~ that is stipulated in the agreement. Any agreement of this type shall provide that all interest payments and principal repayments require prior approval by the commissioner. Unless otherwise approved by the commissioner, written agreements evidencing ~~such~~ this borrowed money shall not be issued in units of less than ten thousand dollars (\$10,000). ~~No~~ Unless otherwise allowed by the commissioner, no commission or promotion expense shall be paid in connection with any ~~such loan~~ loan of this type. An agreement to borrow money to provide surplus funds, or for any business purpose, may be termed a surplus note or other agreement. No surplus note may be issued unless it conforms to the requirements set forth at the time the note is issued in the Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners for the reporting of agreements as surplus and not as debt in the financial statements required to be filed by an insurer with the commissioner.

SEC. 2. Section 4041 of the Insurance Code is repealed.

~~4041. Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement, or be the basis of any setoff, but until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid.~~

SEC. 3. Section 4043 of the Insurance Code is repealed.

~~4043. Any such loan to a mutual insurer shall be repaid by the insurer when and to the extent it is no longer reasonably necessary for the purpose originally intended; provided, that no such repayment shall be made which will reduce the net surplus below an amount equivalent to the aggregate of paid-in capital and~~

1 ~~unassigned surplus required by this code for issuance of a~~
2 ~~certificate of authority to a capital stock insurer transacting the~~
3 ~~same classes of insurance. No repayment of such a loan shall be~~
4 ~~made by a mutual insurer unless approved in advance by the~~
5 ~~commissioner.~~

6 *SEC. 4. This act is an urgency statute necessary for the*
7 *immediate preservation of the public peace, health, or safety*
8 *within the meaning of Article IV of the Constitution and shall go*
9 *into immediate effect. The facts constituting the necessity are:*

10 *In order to promote to the financial stability and solvency of*
11 *mutual insurers, it is necessary that this act take effect*
12 *immediately.*

13 ~~Code is amended to read:~~

14 ~~4980.44. (a) An unlicensed marriage and family therapist~~
15 ~~intern employed under this chapter shall:~~

16 ~~(1) Have earned at least a master's degree as specified in~~
17 ~~Section 4980.40.~~

18 ~~(2) Be registered with the board prior to the intern performing~~
19 ~~any duties, except as otherwise provided in subdivision (e) of~~
20 ~~Section 4980.43.~~

21 ~~(3) File for renewal of registration annually for a maximum of~~
22 ~~five years after initial registration with the board. Renewal of~~
23 ~~registration shall include filing an application for renewal, paying~~
24 ~~a renewal fee of seventy-five dollars (\$75), and notifying the board~~
25 ~~whether he or she has been convicted, as defined in Section 490,~~
26 ~~of a misdemeanor or felony, or whether any disciplinary action has~~
27 ~~been taken by any regulatory or licensing board in this or any other~~
28 ~~state, subsequent to the registrant's last renewal.~~

29 ~~(4) Inform each client or patient prior to performing any~~
30 ~~professional services that he or she is unlicensed and under the~~
31 ~~supervision of a licensed marriage and family therapist, licensed~~
32 ~~clinical social worker, licensed psychologist, licensed physician~~
33 ~~certified in psychiatry by the American Board of Psychiatry and~~
34 ~~Neurology, or a licensed physician who has completed a residency~~
35 ~~in psychiatry and who is described in subdivision (f) of Section~~
36 ~~4980.40, whichever is applicable. Continued employment as an~~
37 ~~unlicensed marriage and family therapist intern shall cease after~~
38 ~~six years unless the requirements of subdivision (b) are met. No~~
39 ~~registration shall be renewed or reinstated beyond the six years~~
40 ~~from initial issuance regardless of whether it has been revoked.~~

1 ~~(b) When no further renewals are possible, either because the~~
2 ~~applicant has exhausted the number of renewals available or~~
3 ~~because of the repeal of Section 4980.44, as amended by Chapter~~
4 ~~1114 of the Statutes of 1991, an applicant may apply for and obtain~~
5 ~~new intern registration status if the applicant meets the educational~~
6 ~~requirements for registration in effect at the time of the application~~
7 ~~for a new intern registration. An applicant who is issued a~~
8 ~~subsequent intern registration pursuant to this subdivision may be~~
9 ~~employed or volunteer in all allowable work settings except in~~
10 ~~private practice.~~

